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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HUYNH, LOUIS K

ART UNIT	PAPER NUMBER
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3721

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DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,153

Applicant(s)

GIBSON, JAMES B. *cm*

Examiner

Louis K. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 2-4,8,10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-7 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1, 5-7, 9 and 11, in Paper No. 3 is acknowledged, and a further election without traverse of Group IA, claims 1, 5-7 and 9, in Paper No. 5 is also acknowledged.

Claims 2-4, 8, 10 and 11 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Paper Nos. 3 and 5.

Drawings

2. The drawings contain hand written reference numbers and are therefore considered to be informal which are acceptable for examination purposes. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 5-7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 appears to be incomplete for lacking the structural relationship between each of the plurality of hoppers. Without the structural arrangement of the hoppers, the multi-compartmented container having a plurality of packages cannot be defined since the packages must be sized and aligned with the hoppers.

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Claim 1, line 5: "a passageway between each of said hoppers and said nozzle" is indefinite because each nozzle associates with one hopper therefore there cannot be a passageway between one particular nozzle and each of the hoppers. Perhaps, the phrase "a passageway between each of the hoppers and the associated nozzle" would better define the structural relation-ship of the passageways with respect to the nozzles and the hoppers.

Claim 1, line 12: "a sealing arrangement" is indefinite for it is unclear as to what arrangement applicant is referring, it is unclear whether the 'sealing arrangement' is a 'means for sealing' or a 'process for sealing'. Applicant should positively recite the structural limitations in order to clearly define the claimed apparatus which applicant regards as his invention.

Claim 5 is indefinite for it is unclear whether the specified dimension is for one package of the multi-compartmented container or for the multi-compartmented container itself.

Claim 7 lacks proper antecedent basis in the specification. Furthermore, the claim does not recite any structural limitation to further limit the claimed apparatus of the previous claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Aylward (US 5,737,902).

Aylward discloses a packaging apparatus including: a plurality of hoppers (22); a plurality of nozzles (40), each of the nozzles (40) associated with one of the hoppers (22); a door

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(35) for opening and closing a passageway between each of the hoppers (22) and the associated nozzle (40); a multi-compartmented container (15) comprising a plurality of blister packages, wherein the packages are of a size and alignment to allow the packages to receive articles from the hoppers (22); and a sealing means, inherent in the art of blister packaging, for sealing the packages (column 1, lines 23-26).

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Benner, Jr. et al. (US 4,702,289).

Benner, Jr. discloses a packaging apparatus including: a plurality of hoppers (cup 37); a plurality of nozzles (funnel 28), each of the nozzles (28) associated with one of the hoppers (37); a door (30) for opening and closing a passageway between each of the hoppers (22) and the associated nozzle (40); a multi-compartmented container (bag web 14) comprising a plurality of packages (15), wherein the packages (15) are of a size and alignment to allow the packages to receive product from the hoppers (37); and a sealing means (17) for sealing the packages.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 5, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mosley (US 5,752,371) in view of Wilson, Jr. et al. (US 5,758,477) and Bentson (US 4,630,311).

With respect to claim 1, Mosley discloses a bag loading device including: a plurality of hoppers; a plurality of nozzles, each of the nozzles connected to one of the hoppers; and a plurality of bags (15), wherein each of the bags (4) is of a size and alignment to allow the bags to receive product from the hoppers (37). The device of Mosley meets most of applicant's claimed subject matter but lacks the specific teaching of a door for opening a passageway between the hopper and the nozzle. However, Wilson, Jr. discloses a packaging device including a hopper (111); a nozzle (115); and a door (112) for opening a passageway between the hopper and the nozzle so that counted products are discharged into an outfeed unit. Therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have modified the device of Mosley by having provided a door for opening the passageway between the hopper and the nozzle, as taught by Wilson, Jr., so that product disposed in the hopper could be counted prior to discharging into the bag thus ensuring a correct quantity of products, such as daily regiment of vitamins and/or medications, being deposited into the bag.

The modified device of Mosley meets all of applicant's claimed subject matter except for a sealing arrangement for sealing the packages. Since the device of Mosley is for packaging in advance daily regiment of vitamins and/or medicaments in small bags for weekly traveler (column 1, lines 16-24) and the bags of vitamins and/or medicaments must be sealed in order to prevent contamination such as moisture and/or dust; therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have modified the device of Mosley by having provided a sealing arrangement for sealing the bags in order to prevent the vitamins and/or medicaments from being contaminated prior to being taken internally.

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The modified device of Mosley meets all of applicant's claimed subject matter but lacks the specific teaching of a multi-container comprising a plurality of the packages. However, the interconnecting bags are well known in the art of packaging such as a chain of interconnecting bags (10, 11) disclosed in the Bentson reference. Therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have modified the Mosley device by having provided a chain of interconnecting bags, as taught by Bentson, so that a predetermined number of bags could be provided as desired.

With respect to claim 5, the specific size of the package is obvious as a matter of engineering design choice since it does not solve any stated problem insofar as the record is concerned and thus does not patentably distinguish the claimed invention over the applied prior art.

With respect to claim 7, as best understood, the bag used in the reference to Mosley is preferably resealable plastic bag (column 2, lines 43-44) which would include a bag having reclosable feature such as zipper, adhesive strips, etc. provided on the bag; therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have included adhesive strip on the package so that the package could be closed after filling.

With respect to claim 9, the nozzles in the modified device of Mosley would have included an angled surface at the discharge end as shown in Figure 1 of the Mosley reference.

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10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mosley (US 5,752,371) in view of Wilson, Jr. et al. (US 5,758,477) and Bentson (US 4,630,311) as applied to claim 1 above; and further in view of Smith (US 4,021,290) and Alden (US 5,177,937).

The modified device of Mosley meets all of applicant's claimed subject matter but lacks the specific teaching of a specific heat sealing unit including a metal sealing strip, a hinged cover, a heat sensor and a light connected to the sensor for indicating an optimal sealing temperature of the packages. However, Smith discloses a bag sealer for sealing plastic bags including a hinged cover (16), an electrical heating element (14), and an indicator light (48). It would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have further modified the device of Mosley by having provided a bag sealer, as taught by Smith, in order to seal the filled bags since the bags when filled with vitamins and/or medications must be sealed in order to keep the vitamins and/or medications inside and to prevent the vitamins and/or medications from being contaminated.

The modified device of Mosley meets all of applicant's claimed subject matter but lacks the specific teaching of a heat sensor connected to the indicator light for changing state when the sensor detects that the packages have achieved an optimal sealing temperature. However, Alden discloses a sealing device (10) for sealing plastic material including an LED (45) for indicating the status of the device (10) (column 5, lines 27-35), and an electronic control unit (40) having an integrated sensor for controlling the temperature of the heating element (23) (column 4, line 45 – column 5, line 7). Therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have further modified the device of Mosley by having

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provided an electronic control unit having integrated sensor for controlling the temperature of the heating element, as taught by Alden, in order to properly seal the plastic bags.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied prior art.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (703) 306-5694. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Louis K. Huynh
Patent Examiner
Art Unit 3721

LH
August 7, 2003